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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

EPIFANIO SOTO,

Defendant and Appellant.

F078201

(Super. Ct. No. SF018215A)

OPINION

THE COURT*

APPEAL from an order of the Superior Court of Kern County. John R. Brownlee,
Judge.

Kendall Dawson Wasley, under appointment by the Court of Appeal, for
Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and
Respondent.

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* Before Levy, Acting P.J., Snauffer, J., and DeSantos, J.

STATEMENT OF APPEALABILITY

This appeal is from an order made after judgment, affecting the substantial rights of the defendant, and is authorized by Penal Code section 1237, subdivision (b).

STATEMENT OF CASE AND FACTS

A jury found appellant Epifanio Soto guilty of two counts of assault with a firearm (Pen. Code, § 245, subd. (a)(2); counts one and two) and one count of felon in possession of a firearm. (Pen. Code, § 29800, subd. (a)(1); count three.) A gun enhancement under Penal Code section 12022.5, subdivision (a), was found true as to both counts one and two. On January 15, 2016, Soto was sentenced to the upper term of four years on count one, plus three years for the personal use of a firearm enhancement. On count two, Soto was sentenced to one year and an additional year for the gun enhancement. The sentence on count three was stayed pursuant to Penal Code section 654. Soto appealed, and the Court of Appeal ordered the matter remanded to allow the trial court an opportunity to exercise its discretion under Senate Bill 620.¹ The remittitur issued on July 11, 2018.

On July 18, 2018, the trial court issued an order removing Soto from prison to Kern County to appear in court on August 9, 2018. On August 29, 2018, Soto filed “Points and Authorities in Support of Request that the Court Exercise its Discretion and Dismiss or Strike the Firearm Enhancement.” The next day the prosecution filed an opposition to striking the firearm enhancement.

On September 5, 2018, the trial court held a resentencing hearing, and after hearing argument, imposed the same sentence it had previously imposed. Soto filed a timely notice of appeal on September 25, 2018.

¹ The facts underlying the conviction are set forth in detail in our prior opinion. (*People v. Soto* (May 9, 2018, F073344, F073390 [nonpub. opn.].)

APPELLATE COURT REVIEW

Soto's appointed appellate counsel has filed an opening brief that summarizes the pertinent facts, raises no issues, and requests this court to review the record independently. (*People v. Wende* (1979) 25 Cal.3d 436.) The opening brief also includes the declaration of appellate counsel indicating that Soto was advised he could file his own brief with this court. By letter on February 28, 2019, we invited Soto to submit additional briefing. To date, he has not done so.

After independent review of the record, we have concluded there are no reasonably arguable legal or factual issues.

DISPOSITION

The order is affirmed.